

Appl. No. : 10/003,703
Filed : October, 23, 2001

REMARKS

By way of summary, Claims 1-52 were originally filed with the application. By this amendment, Claims 1, 17, and 33 are amended, Claims 45-52 are cancelled without prejudice, and no new claims are added. Accordingly, Claims 1-44 remain pending in the application.

Claim Election/Restriction

In the Office Action, the Examiner notes that restriction to claim group I, Claims 1-44, or group II, Claims 45-52, is required under 35 U.S.C. §121. The Applicant hereby confirms the previous oral election of claim group I, Claims 1-44, and cancels Claims 45-52 without prejudice. The Applicant reserves the right to pursue the subject matter of any cancelled claims in one or more continuation or divisional applications.

Claim Rejections under 35 U.S.C. §102(e)

The Examiner rejected Claims 1-29 and 33-44 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application 2002/0061031 to Sugar, et al. ("Sugar"). In view of the amendments above and the following remarks, Applicant respectfully requests reconsideration of these claim rejections.

Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. See M.P.E.P. § 2131.

Sugar describes, in general, "[i]nterference mitigation or collision avoidance systems and procedures to allow different wireless local area network (WLAN) communication protocols to co-exist in the same frequency band." Sugar, Abstract. The Sugar system discloses that:

The choice of which WLAN to transmit may be determined by establishing a priority for different WLAN networks or for the type of data or channel that is to be carried on the WLAN. For example, voice and video communications, which are often carried on synchronous channels, are typically more sensitive to added latency than data communications. Voice and video channels would therefore normally be given a higher priority than given for a data exchange. Sugar, paragraph [0054] (emphasis added).

Appl. No. : 10/003,703
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Thus, Sugar appears to disclose a interference mitigation system that determines which protocol should be transmitted based on established priorities for the protocols. Sugar further describes that

[i]f Shared CSMA Mode is not enabled, the MPD [multi-protocol wireless communication device] alternates access ownership between 802.11 and HomeRF during the contention period *based on their relative network load*. For example, if the 802.11 network load is 10% and the HomeRF CSMA network load is 30%, the MPD allows the HomeRF to use the contention period 3 out of every 4 times both networks share the same frequency, and allows the 802.11 network to use the contention period 1 out of every 4 times. *Sugar*, paragraph [0128] (emphasis added).

Thus, Sugar also appears to provide access during contention transmission periods based on network loads for the protocols.

In contrast to Sugar, amended Claim 1 recites in pertinent part:

A method for collision avoidance in a wireless communication network wherein a first subset of communications devices exchange data through transmissions using a first protocol and a second subset of communications devices exchange data through transmissions using a second protocol ... the method comprising

....
prioritizing transmission of the first and second transmissions so as to maintain each of the first and second transmissions within their respective desired service levels, wherein the prioritizing is based at least partly on the *priorities and the current quality of service levels* associated with the first and second transmissions.”

Thus, Claim 1 teaches a method for collision avoidance that prioritizes communication based “at least partly on the priorities *and the current quality of service levels* associated with the first and second transmissions.” Applicant respectfully submits that Sugar fails to teach or suggest prioritizing transmissions based on “*the current quality of service levels* associated with the first and second transmissions,” as recited in amended Claim 1. Furthermore, Sugar fails to teach or suggest prioritizing based on both “the priorities *and the current quality of service levels*,” as recited in amended Claim 1. Accordingly, Applicant respectfully submits that amended Claim 1 is in condition for allowance.

Claim 17, as amended, recites in pertinent part: “[a] method for collision avoidance in a wireless communication network ... comprising ...prioritizing transmission of the first and second transmissions ... wherein the prioritizing is based at least partly on the *priorities and the*

Appl. No. : 10/003,703
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determined current quality of service.” Claim 33, as amended, recites in pertinent part: “[a] data collision rectification device for use in a wireless communication network ... comprising: a coordination module which ... prioritizes transmission of the first and second transmissions so as to maintain each of the first and second transmissions within their respective desired quality of service levels, wherein the prioritization is based at least partly on the transmission priorities and a current quality of service associated with the first and second transmissions.” As noted above with respect to Claim 1, Sugar fails to teach or suggest prioritizing based on current quality of service levels. Furthermore, Sugar fails to teach or suggest prioritizing based on current quality of service levels *and* priority levels of the transmissions. Accordingly, Applicant respectfully submits that amended Claims 17 and 33 are in condition for allowance.

Claims 2-16 depend from Claim 1 and each include the limitations of Claim 1. Claims 18-29 depend from Claim 17 and each include the limitations of Claim 17. Claims 34-44 depend from Claim 33 and each include the limitations of Claim 33. The unique combination of features recited in each of Claims 2-16, 18-29, and 34-44 are believed to be patentable over the cited art. Reconsideration and removal of the rejection of pending claims 1-29, 33-44 is respectfully requested.

Claim Rejections – 35 U.S.C. §103

The Examiner rejected Claims 30-32 under 35 U.S.C. §103(a) as being unpatentable over Sugar in view of U.S. Patent Number 6,405,257 to Gersht et al. (“Gersht”). As amended, the Applicant believes that Claim 17 is in condition for allowance and therefore Claims 30-32, which depend on Claim 17, are allowable at least for the reasons discussed above with reference to Claim 17 as well as their unique patentable features. The Applicant respectfully requests reconsideration and removal of the rejection of pending Claims 30-32.

Claim Objections

The Examiner objected to Claim 50, stating that Claim 50 is the same as Claim 49. The Applicant notes that, in response to restriction requirement, election has been made for claim group I, Claims 1-44, and claim group II, Claims 45-52, has been cancelled. Therefore, Claim 50

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is not currently pending in the application. The Applicant reserves the right to pursue the subject matter of any cancelled claims in one or more continuation or divisional applications.

SUMMARY

For the foregoing reasons, the Applicant believes that the present application, as amended, is now in condition for allowance and the Applicant requests the prompt allowance of the same.

The undersigned has made a good faith effort to respond to all the rejections in the case and to place the application in condition for immediate allowance. Nevertheless, if any undeveloped issues remain, or if any issues require clarification, the Examiner is respectfully requested to call the undersigned at the number shown below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

3/28/06

By: _____

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